

Subcommittee on Interim Strong Mayor--Recommendations

Proposed Charter Language on Sunset, Eleven Council Members and Districts, and Veto Process, Prepared for Submission to the Full Committee by James Ingram

Pursuant to the request of the Subcommittee, staff has prepared this report for forwarding to the San Diego Charter Review Committee.

At the Subcommittee's request, the staff has worked with representatives of the City Attorney's Office to ensure that the proposed language is drafted according to acceptable standards for the City Charter.

The Subcommittee made three recommendations for proposed Charter language, covering the issues of the Prop F sunset, the number of Council members and districts, and the veto. The Subcommittee adopted each of these recommendations by a separate motion, and all three were approved unanimously.

Sunset Provisions

Current Language

Section 255: Operative Date; Sunset of Article; Future Action by Voters

(a) The date for the provisions of this Article to become operative is January 1, 2006.

(b) After January 1, 2006, the provisions of this Article shall remain in effect for a period of five years (until December 31, 2010) at which time this Article shall be automatically repealed and removed from the Charter. However, the Council and the people reserve the right to propose amendments to the Charter at the November 2010 election or sooner to extend, make permanent, shorten or repeal the effective period of this Article and to consider increasing the number of Council districts to nine at the time of the next City Council district reapportionment which follows the national decennial census in 2010.

Proposed Language Recommended by Subcommittee

Section 255: Operative Date; Future Action by Voters

This Article shall remain in effect until December 31, 2014, at which time it shall become permanent unless voters have approved a ballot measure to extend, shorten or repeal the effective period of this Article.

Ballot Language to Adopt Proposed Language

Section 255: Operative Date; ~~Sunset of Article;~~ Future Action by Voters

~~(a) The date for the provisions of this Article to become operative is January 1, 2006.~~

~~(b) After January 1, 2006, the provisions of t~~This Article shall remain in effect for a period of five years ~~(until December 31, 2010)~~, at which time this Article shall **become permanent unless voters have approved a ballot measure** automatically repealed and removed from the Charter. However, the Council and the people reserve the right to propose amendments to the Charter at the November 2010 election or sooner to extend, make permanent, shorten or repeal the effective

~~period of this Article and to consider increasing the number of Council districts to nine at the time of the next City Council district reapportionment which follows the national decennial census in 2010.~~

Staff Addendum

It would also be necessary to alter the last sentence of Section 250, because it presently states:

"The purpose of this Article is to modify the existing form of governance for a trial period of time to test implementation of a new form of governance commonly known as a Strong Mayor form of government."

Instead, that sentence would read:

"The purpose of this Article is to modify the existing form of governance to implement a new form of governance commonly known as a Strong Mayor form of government."

This is the appropriate ballot language to enact the needed alteration:

~~"The purpose of this Article is to modify the existing form of governance for a trial period of time to test implementation of a new form of governance commonly known as a Strong Mayor form of government."~~

Eleven Council Members and Districts

Current Language

Section 270: The Council

(a) The Council shall be composed of eight councilmembers elected by district, and shall be the legislative body of the City.

Proposed Language Recommended by Subcommittee

Section 270: The Council

(a) The Council shall be composed of eleven councilmembers elected by district, and shall be the legislative body of the City.

###

(j) The City shall be redistricted, as soon as practicable, to establish the additional districts required by this section. Such redistricting process shall follow the terms prescribed by Charter sections 5 and 5.1.

Ballot Language to Adopt Proposed Language

Section 270: The Council

(a) The Council shall be composed of ~~eight~~ **eleven** councilmembers elected by district, and shall be the legislative body of the City.

###

(j) The City shall be redistricted, as soon as practicable, to establish the additional districts required by this section. Such redistricting process shall follow the terms prescribed by Charter sections 5 and 5.1.

Staff Addendum

It would also be necessary to alter Charter Sections 4, 5.1, 10 and 12, which presently treat the Council as an eight-member body. The three new districts should likely continue to use the City's odd and even-numbered Council district election system, so that those two odd- and one even-numbered districts' Council members would initially need to be elected with either two- or four-year terms to maintain the staggering of elections such that voters choose roughly half of their City officers during any primary and general election cycle.

Veto

Current Language

Section 285: Enactment Over Veto

The Council shall reconsider any resolution or ordinance vetoed by the Mayor. If, after such reconsideration, at least five members of the Council vote in favor of passage, that resolution or ordinance shall become effective notwithstanding the Mayor's veto. If more than five votes are required for the passage of any resolution or ordinance by the provisions of this Charter or other superseding law, such larger vote shall be required to override the veto of the Mayor. If a vetoed resolution or ordinance does not receive sufficient votes to override the Mayor's veto within thirty (30) calendar days of such veto, that resolution or ordinance shall be deemed disapproved and have no legal effect.

Section 290: Council Consideration of Salary Ordinance and Budget; Special Veto Power

###

(2) If modified by the Council, the budget shall be returned to the Mayor as soon as practicable.

(A) The Mayor shall, within five business days of receipt either approve, veto, or modify any line item approved by the Council.

(B) The Council shall thereafter have five business days within which to override any vetoes or modifications made by the Mayor pursuant to section 290(b)(2)(A). Any item in the proposed budget that was vetoed or otherwise modified by the Mayor shall remain as vetoed or modified unless overridden by the vote of at least five members of the Council. In voting to override the actions of the Mayor, the Council may adopt either an amount it had previously approved or an amount in between the amount originally approved by the Council and the amount approved by the Mayor, subject to the balanced budget requirements set forth in section 71.

Proposed Language Recommended by Subcommittee

Section 285: Enactment Over Veto

The Council shall reconsider any resolution or ordinance vetoed by the Mayor. If, after such reconsideration, at least two-thirds of the Council vote in favor of passage, that resolution or ordinance shall become effective notwithstanding the Mayor's veto. If a two-thirds vote of the Council is required for the passage of any resolution or

ordinance by the provisions of this Charter or other superseding law, then the number of Council votes necessary to override the Mayor's veto shall be one vote more than was necessary to pass the resolution or ordinance. If a vetoed resolution or ordinance does not receive sufficient votes to override the Mayor's veto within thirty calendar days of such veto, that resolution or ordinance shall be deemed disapproved and have no legal effect.

Section 290: Council Consideration of Salary Ordinance and Budget; Special Veto Power

###

(2) If modified by the Council, the budget shall be returned to the Mayor as soon as practicable.

(A) The Mayor shall, within five business days of receipt either approve, veto, or modify any line item approved by the Council.

(B) The Council shall thereafter have five business days within which to override any vetoes or modifications made by the Mayor pursuant to section 290(b)(2)(A). Any item in the proposed budget that was vetoed or otherwise modified by the Mayor shall remain as vetoed or modified unless overridden by a two-thirds vote of the Council as set forth in Section 285. In voting to override the actions of the Mayor, the Council may adopt either an amount it had previously approved or an amount in between the amount originally approved by the Council and the amount approved by the Mayor, subject to the balanced budget requirements set forth in section 71.

Ballot Language to Adopt Proposed Language

Section 285: Enactment Over Veto

The Council shall reconsider any resolution or ordinance vetoed by the Mayor. If, after such reconsideration, at least ~~five members~~ **two-thirds** of the Council vote in favor of passage, that resolution or ordinance shall become effective notwithstanding the Mayor's veto. ~~If more than five votes are a~~ **two-thirds vote of the Council is** required for the passage of any resolution or ordinance by the provisions of this Charter or other superseding law, ~~such larger vote shall be required to override the veto of the Mayor~~ **then the number of Council votes necessary to override the Mayor's veto shall be one vote more than was necessary to pass the resolution or ordinance.** If a vetoed resolution or ordinance does not receive sufficient votes to override the Mayor's veto within thirty ~~(30)~~ calendar days of such veto, that resolution or ordinance shall be deemed disapproved and have no legal effect.

Section 290: Council Consideration of Salary Ordinance and Budget; Special Veto Power

###

(2) If modified by the Council, the budget shall be returned to the Mayor as soon as practicable.

(A) The Mayor shall, within five business days of receipt either approve, veto, or modify any line item approved by the Council.

(B) The Council shall thereafter have five business days within which to override any vetoes or modifications made by the Mayor pursuant to section 290(b)(2)(A). Any item in the proposed budget that was vetoed or otherwise modified by the Mayor shall remain as vetoed or modified unless overridden by the ~~vote of at least five members of the Council~~ **a two-thirds vote of the Council as set forth in Section 285.** In voting to override the actions of the Mayor, the

Council may adopt either an amount it had previously approved or an amount in between the amount originally approved by the Council and the amount approved by the Mayor, subject to the balanced budget requirements set forth in section 71.

Staff Addendum

The staff has not found any Charter sections that would be rendered problematic by the proposed alteration. If there were voting provisions elsewhere in the Charter that designated a specific number of Council members needed to act, then the proposed two-thirds language would not work.

There are several actions in the Charter that the Council may only take by a two-thirds vote. These appear in Charter sections 11.2, 17, 26, 41, 90.1(Subd. 4b), 90.2(Subs. 3), 91, 94, 99, 103 and 295(e). In addition, the present language of Charter section 285, which this Subcommittee has above proposed to revise, requires a supermajority vote for some actions. The Subcommittee has not proposed to alter the Charter to allow the Mayor to veto the Annual Appropriations Ordinance, because another Subcommittee is exploring the possibility of mandating that ordinance do no more than implement the budget, over which the Mayor would already hold a veto. If no action is taken by another Subcommittee along these lines, it might be advisable to repeal the current Charter's exemption of the Annual Appropriations Ordinance from the Mayoral veto (See Charter sections 280(a)(4) and 290(d)).

Items Upon Which the Committee Did Not Reach Consensus

The Subcommittee did vote upon a fourth motion which would have linked two of the recommendations made above. That motion would have required linkage between the two-thirds veto override and the increase in Council size to 11 districts. The motion failed by the following vote: 2 affirmative, 2 negative, 1 abstention.